

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

ex rel. JON VITALE,

Relator,

v.

MIMEDX GROUP, INC.,

Defendant.

CA No. 3:17-cv-00166-RBH

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**Memorandum in opposition to Defendant's motion  
for extension of time to respond to Complaint**

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Defendant MiMedx Group, Inc. has moved the Court to extend its time to respond to the Complaint until on or before October 1, 2018. See Dkt. No. 50. The motion correctly states that counsel for MiMedx and Relator Jon Vitale conducted an August 30 telephone conference during which the undersigned indicated Mr. Vitale would consent to a 21-day extension to *answer* but not to other plead or move. See id. ¶ 5.

In counsels' experience handling complex litigations in this District, other members of this Court have expressed concerns over the pendency of actions for more than three years due to the reporting requirements imposed by the Civil Justice Reform Act. See 28 U.S.C. §§ 476 & 481. Typically, these concerns arise while the parties are still conducting discovery or are attempting to conduct further discovery, forcing the district court to choose between the litigants' need to further prepare the case against the court's obligation to move its docket.

As MiMedx correctly notes, this case was filed on January 19, 2017, and has therefore been pending for 19 months. In Mr. Vitale's view, this matter is both legally and factually complex and will require significant time to properly discover. If filed, briefing, argument (if necessary), and a decision on a motion to dismiss will consume additional time that could otherwise be spent preparing this matter for trial. As the party with the burden of proof—and therefore the party most pressed by any future scheduling constraints imposed by the Court—Mr. Vitale cannot consent to delay resolution of a forthcoming motion to dismiss.

He remains willing to grant MiMedx a 21-day extension to file an answer.

Respectfully submitted by,

s/Richard A. Harpootlian

Richard A. Harpootlian (Fed. ID No. 1730)

Christopher P. Kenney (Fed. ID No. 11314)

RICHARD A. HARPOOTLIAN, P.A.

1410 Laurel Street

Post Office Box 1090

Columbia, SC 29202

Telephone: (803) 252-4848

Facsimile: (803) 252-4810

rah@harpootlianlaw.com

cpk@harpootlianlaw.com

William N. Nettles (Fed. ID No. 6586)

Frances C. Trapp (Fed. ID No. 6376)

Bill Nettles, Attorney at Law

2008 Lincoln Street

Columbia, South Carolina 29201

(803) 814-2826

bill@billnettleslaw.com

fran@billnettleslaw.com

ATTORNEYS FOR RELATOR JON VITALE

August 31, 2018  
Columbia, South Carolina.